

**BOARD OF MEDICINE
THE EXECUTIVE COMMITTEE**

MINUTES

DECEMBER 5, 2003

Dianne Reynolds-Cane, M.D., Chair, called the meeting of Executive Committee to order at 8:00 a.m., at the Department of Health Professions ("DHP").

MEMBERS PRESENT: Dianne L. Reynolds-Cane, M.D., Chair
Harry C. Beaver, M.D.
Carol E. Comstock, R.N.
Rev. LaVert Taylor, Citizen Member
James F. Allen, M.D.

MEMBERS ABSENT: Kenneth J. Walker, M.D.
Jerry R. Willis, D.C.
Sue Ellen Rocovich, D.O.

STAFF PRESENT: William L. Harp, M.D., Executive Director
Karen Perrine, Deputy Executive Director of Discipline
Ola Powers, Deputy Executive Director of Licensing
Roscoe Roberts, Assistant Attorney General
Emily Wingfield, Assistant Attorney General

GUESTS PRESENT: William Regan, M.D. and Deborah Love, Richmond Academy of Medicine

APPROVAL OF MINUTES OF AUGUST 1, 2003

Dr. Allen moved to approve the minutes of August 1, 2003. The motion was seconded and carried.

ADOPTION OF AGENDA

Ms. Comstock moved to adopt the agenda. The motion was seconded and discussed. Dr. Reynolds-Cane asked for a friendly amendment to move the third item, Consideration of the Sanctions Reference Manual as a guidance document, under New Business after the Discipline Report. Dr. Beaver offered the friendly amendment. The amended motion was seconded and carried unanimously.

PUBLIC COMMENT ON AGENDA ITEMS

Dr. Regan indicated that the Richmond Academy would like to be more involved with business of the Board of Medicine. Dr. Harp offered several suggestions such as the Town Hall with e-mail notification and inclusion on the public participation mailing list.

REPORT OF OFFICERS

There were no reports.

DHP DIRECTOR'S REPORT

Dr. Harp stated that Mr. Nebiker was attending a DEA sponsored program for states and that he would report from Mr. Nebiker that the Prescription Monitoring Program was underway.

REPORT OF SENIOR ASSISTANT ATTORNEY GENERAL

Mr. Roberts reported that there was no pending litigation or decisions. He introduced Emily Wingfield as the new Board counsel beginning December 10, 2003, as he had accepted a position as counsel for Virginia State University. Dr. Reynolds-Cane honored Mr. Roberts and wished him well.

EXECUTIVE DIRECTOR'S REPORT

Dr. Harp reported that Dr. Barbara Matusiak, the medical review coordinator, would join the Board on December 15th.

COMMITTEE REPORTS

HB1706 AD HOC COMMITTEE – Ms. Yeatts reported on the Committee's work from its first meeting on November 24, 2003. She stated that information was being collected and the Committee would meet again on December 16, 2003.

ETHICS AD HOC COMMITTEE – Ms. Yeatts explained this Committee's charge was to examine material previously reviewed and organized by Board staff. All the professional societies, including the medical specialty societies in the Commonwealth, have been invited to attend. The intent is to develop generic regulations for all professions and then look at individual regulations for items more specific to certain occupations.

NEW BUSINESS

UPDATE ON CONFIDENTIAL CONSENT AGREEMENTS

Ms. Perrine reported that the Board is working through approximately 900 cases and has begun docketing cases. Out of 900, 400 have been docketed. She stated that the initial group of 25

CCA's was processed at the end of October, with 20 signed, 1 continued and 4 not returned. A second group of approximately 60 cases were approved by APD and should be mailed shortly. A third group of approximately 25 have been sent to APD. Rev. Taylor moved that notices regarding CCA's be sent by certified mail only and not regular mail. The motion was seconded, discussed and carried. Ms. Perrine also asked about multiple issues involved in a profile case and how they should be handled. Ms. Comstock moved that possible profile cases should be handled separately from other cases involving respondents. The motion was seconded and discussed. Dr. Allen offered a friendly amendment to clarify that this included cases where investigations are completed and was limited to profile cases that are within parameters previously pre-approved by the Board for processing by staff. The amended motion was accepted, seconded, discussed and carried.

SUGGESTED CHANGE TO THE BOARD OF MEDICINE BYLAWS

Dr. Reynolds-Cane stated that there should be two citizen members on the Executive Committee and that the language in the bylaws did not reflect two citizen members. Rev. Taylor moved to amend the bylaws to reflect two citizen members. The motion was seconded, discussed and carried.

DHP LEGISLATIVE PROPOSAL REGARDING DELEGATION TO AGENCY SUBORDINATES

Ms. Yeatts explained that this proposal was accepted in the Governor's packet and that no action was necessary.

UPDATE ON PRACTITIONER INFORMATION

In Ms. Nosbisch's absence, Dr. Harp reported that the language requested by the full Board, advising that a practitioner profile may not be current was on the system, and that the Profile audit was underway.

DISCIPLINE REPORT

Ms. Perrine reported that the main issue has been CCA cases. She said that the Board's caseload in August 2002 was 730 open cases, decreasing to 547 at the present time, with 526 at probable cause level. The current count of open cases at all levels, from investigations to administrative proceedings, is at 1300 and steadily decreasing. Dr. Reynolds-Cane expressed her concern with the high number of cases due to docketing profile cases, and public perception. Ms. Perrine noted that she would differentiate between profile and regular cases in the statistical data for future reports.

CONSIDERATION OF THE SANCTIONS REFERENCE MANUAL AS A GUIDANCE DOCUMENT

Mr. Neal Kauder and Dr. Elizabeth Carter presented the Sanctions Reference Manual in preparation to test pilot, describing each aspect of the process. It was reported that the pilot project should last approximately one year. Ms. Comstock moved to go into Executive Session

pursuant to Virginia Code Section 2.2-3711 to receive advice from legal counsel, and that Dr. Harp, Dr. Carter, Neal Kauder, Roscoe Roberts, Emily Wingfield, Karen Perrine, Kim Langston and Ola Powers remain for the purpose of consultation. The motion was seconded, discussed and carried. The Board reconvened in open session. Dr. Reynolds-Cane requested that all members certify that while in closed session the members of the Committee did not separate from the requirements of Section 2.2-3711 of the Code of Virginia. The motion was seconded and carried. Dr. Allen moved that the Board proceed with the Sanctions Reference pilot project for informals and consent orders, to prepare a guidance document, and to add a paragraph to notices to advise respondents of the Sanctions Reference pilot project. The motion was seconded, discussed and carried. Rev. Taylor moved that Board approval be obtained before going forward after the pilot program has ended. The motion was seconded, discussed and carried.

ANNOUNCEMENTS

There were no announcements.

NEXT MEETING

The next scheduled meeting date is March 12, 2004.

ADJOURNMENT

The meeting of the Executive Committee was adjourned.

Dianne Reynolds-Cane, M.D.
Chair

William L. Harp, M.D.
Executive Director

Ola Powers
Recording Secretary